

Act of 2007." The legislation introduced today reflects the version of the bill as approved by the House Subcommittee on Telecommunications and the Internet less than two weeks ago. The bill will continue to undergo refinement in the Energy and Commerce Committee and my ongoing goal is to work toward a bipartisan, consensus bill.

The objectives of this bill are two-fold. First, to gain a better assessment of how America is doing in broadband service deployment and adoption, the bill will obtain information on the types and speed of broadband service subscribers utilize and the extent of such adoption for the residential and business market in areas at the 5-digit zip code level. Second, the bill will seek to develop a national, interactive map of broadband service availability for use by consumers. This map will help to identify areas of the country where service does not exist and also assist consumers in ascertaining which broadband service providers are available in their neighborhood.

I believe at this point there is growing consensus—if not unanimity—around the fact that current data collection methods used by the Federal Communications Commission (FCC) are inadequate and highly flawed. Currently, the FCC counts a single broadband subscriber in a 5-digit zip code as indicating the entire zip code has broadband availability, even if the sole subscriber is a business and not a residential consumer. This can lead to highly inaccurate and overly generous notions of actual broadband availability and use, particularly in rural areas where zip codes are quite large.

In addition, under almost any set of measurements, the United States lags other nations not only in availability and speed but also in the value. The 50 Megabit per second service in Japan, for instance, is available to Japanese consumers for roughly \$30. Here in the U.S., consumers typically pay \$20 for about 1 Megabit of service and \$30 to 40 for roughly 4 Megabits of service. This legislation will task the FCC with identifying tiers of increasing data transmission speeds, for both upstream and downstream attributes. These tiers will describe existing broadband service capability deployed in the Nation and are designed to the extent possible to correspond to a service's ability to support qualitatively different applications and services. Identifying such tiers and the services which apply to them will enable policymakers to gauge the broadband service speeds that are being subscribed to by residential consumers and by small and large businesses and will also allow for trends to be seen in such adoption over a period of time.

The lack of such information today leaves policymakers largely in the dark about the nature and extent of broadband service deployment and adoption in urban, suburban, and rural areas of the country. The state of knowledge around the status of broadband services in the United States directly affects the ability of policymakers to make sound decisions. For instance, the Federal government can do a much better job in reforming multi-billion dollar grant and subsidy programs—whether at the Rural Utilities Service or at the FCC—if we have better data on where we truly need to target government assistance. Similarly, States can focus limited State resources for economic assistance, computer adoption, and broadband promotion if ample and accurate data is available indicating where such resources should be deployed.

This is precisely what has happened in Kentucky. ConnectKentucky has been a wildly successful effort and has demonstrated the palpable benefits to mapping broadband for various public policy benefits.

The risks of not developing national data will undermine our goal of achieving a national plan for universal, affordable broadband. This, in turn, adversely affects consumers and communities across the Nation. The benefits of higher speeds, lower prices, and more choices for broadband services include greater economic opportunity, job creation, worker productivity, access to health care and educational resources, promotion of innovation, and global competitiveness.

Madam Speaker, I look forward to working with Energy and Commerce Committee Chairman JOHN DINGELL, Ranking Member JOE BARTON, Telecommunications and the Internet Subcommittee Ranking Member FRED UPTON, as well as my other House colleagues on this bill as the process continues.

#### U.S. SENATE CONFIRMATION OF LESLIE SOUTHWICK

#### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Monday, October 22, 2007*

Mr. THOMPSON of Mississippi. Madam Speaker, I rise today to express my strong opposition to the nomination of Leslie Southwick, now being considered by the U.S. Senate.

In an attempt, yet again, to place someone for a lifetime seat on the Federal bench, which has traditionally been racially ignorant and insensitive towards civil rights, the President has risen to the occasion and nominated Leslie Southwick.

This will be his third nomination, of a Mississippian, to the Fifth Circuit since 2001. However, none of his nominations aid in rectifying the egregious problem with the lack of diversity on Mississippi's Federal bench.

Mississippi has the highest African-American population, 37 percent, of any state in the country. In spite of the hundreds of African-American lawyers and judges in Mississippi, there has never been an African-American, nor any other minority from Mississippi, appointed to represent Mississippi on the Fifth Circuit Court of Appeals in the history of this country.

This is a fight worth having. The Fifth Circuit has the highest percentage of minority residents of any circuit. At the same time, its civil rights jurisprudence is far to the right. The recent events in Jena, LA, show the racism in the criminal justice system within the jurisdiction of the Fifth Circuit. We cannot afford a nominee hostile to civil rights on this or any other Court.

There is a history with this seat. The President is intent on placing someone hostile to civil rights in the Mississippi seat on this Court. Charles Pickering and Michael Wallace were nominated but couldn't get confirmed because of their civil rights records. This is the third try by the Administration, and the pattern is very clear.

Instead of stepping up to the plate and nominating someone capable of delivering fair and impartial decisions on civil rights, the President has slapped Mississippians in the

face with the recent nomination of Southwick. Just look to Southwick's controversial opinions.

In *Richmond v. MS Dep't of Human Services*, a white employee was fired for using the phrase "good ole nigger" toward an African-American co-worker. When the white employee was fired, a hearing officer reinstated the employee. In upholding the reinstatement, the majority (which Southwick joined) concluded that using the phrase "good ole nigger" was equivalent to calling the other employee her "teacher's pet." This opinion was unanimously reversed by the Mississippi Supreme Court. And this is Bush's No. 1 draft pick?

Southwick's rulings on race discrimination in jury selections are equally disturbing. In such cases there is a noticeable pattern of prejudice. Southwick upheld claims that the defense struck white jurors on the basis of their race while rejecting claims that the prosecution was racially motivated in striking African-American jurors. On one hand, Southwick allows prosecutors to strike African-American jurors when the motivation is clearly racial, *McWilliams v. Mississippi*, or when the prosecution cites non-racial reasons for the strikes, *Davis v. Mississippi*. Yet, Southwick denies the defenses warranted attempts to strike white jurors even when the defense uses the same non-racial reasons for the strikes, *Webb v. Mississippi*. And this is the President's No. 1 draft pick?

The aforementioned cases exemplify several opportunities Southwick has had to make a judicious decision befitting such a high court but failed to do so.

Such views must not be tolerated or encouraged through a nomination to a lifelong post representing the judicial integrity of our nation. By this nomination, the Administration is attempting to reward judicious incompetence and great shortsightedness toward civil rights issues.

It's almost as if the President believes that Mississippi does not have any competent African-American lawyers. To think that a state overflowing with highly capable African-American attorneys cannot fill this Mississippi seat is simply preposterous.

Again, I express my sincere opposition to the nomination of Leslie Southwick to Mississippi's Fifth Circuit Court of Appeals. Mississippi needs a nominee who will not look to discourage or impede its growth, but instead, support and empower Mississippi's legacy.

#### TRIBUTE TO HERBERT HENDERSON

#### HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, October 22, 2007*

Mr. RAHALL. Madam Speaker, West Virginia recently lost an outstanding son, Herbert Henderson. Herb passed away last week, but today I rise to celebrate a life well lived and to remember with fondness the accomplishments of a remarkable man who, over his many years, was a torchbearer in the dual causes of spreading equality and ensuring justice.

The unfortunate news of his passing has brought sadness to so many throughout West Virginia, including those who did not have the